

**Lewis County Planning Commission
Public Meeting
Lewis County Courthouse
351 NW North St.
Chehalis, WA**

**November 22, 2011 – 7:00 p.m.
Meeting Notes**

Planning Commissioners Present: Bob Guenther, Russ Prior, Jim Lowery, Bill Russell, Arny Davis

Planning Commissioners Excused: Richard Tausch, Mike Mahoney

Consultants Present: Mike McCormick

Staff Present: Glenn Carter, Lynn Deitrick, Pat Anderson

Others Present: Please see sign in sheet

Handouts/Materials Used:

- Agenda
- Meeting Notes from November 8, 2011
- Letter from Cowlitz Tribe
- Letter from Washington State Department of Transportation
- Letter from Antoinette Nelson
- Letter from George and Judith Redden

I. Call to Order

Chairman Russell called the meeting to order at 7:00 p.m. The Commissioners introduced themselves.

II. Old Business

A. Approval of meeting notes from November 8, 2011

The Chair entertained a motion to approve the meeting notes from November 8, 2011. Commissioner Lowery made the motion, Commissioner Prior seconded. There were no corrections or additions and the meeting notes were approved.

B. Workshop on South County Plan; C. Workshop on Urban Reserve Areas

Mr. Deitrick stated the public hearing was held on November 8 and three letters were received before the comment period ended. Those letters were from Antoinette Nelson, the Cowlitz Tribe Washington State Department of Transportation and a letter was also received from George and Judith Redden. Copies were given to the Commissioners.

Chairman Russell stated the letter from Mr. and Mrs. Redden was addressed to the Board of County Commissioners.

The Chair asked for questions from the Planning Commissioners.

Commissioner Guenther stated the letter from Antoinette Nelson (Jacobsen) was dated October 29, 2010 and he understands this same letter was sent out last year by a number of people. He asked if staff had a conversation with Ms. Nelson.

Mr. Deitrick stated he understood that Mr. Basler did have a discussion with the two citizens.

Commissioner Lowery asked if they are still in the urban reserve district. Mr. Deitrick stated they are still in the urban reserve district and pointed out on the map where they are located, which is the south-southeast portion. Mr. McCormick stated the parcels combined are about 25 acres.

Commissioner Lowery stated some people who objected to the plan had their properties taken out. He asked why these two people had not been taken out. Mr. McCormick stated it was because they had not made a formal request to be out until now. When he and Mr. Basler held the last work shop, there were a couple of people who expressed an interest in talking with some of their neighbors to ask to be withdrawn. He thought perhaps these two property owners revised their interest in being excluded from the proposed urban reserve area. Mr. McCormick stated he had no objection to recommending that they be taken out.

Commissioner Prior stated the letter was written by one person who owns 10 acres. He asked who owned the other property to make up the 25 acres. Mr. McCormick stated there were two letters: the Jacobsen property and the Redden property adjacent to the Jacobsen property which is 15 acres.

Chairman Russell stated the letter from the State of Washington specifically mentions aviation. He asked if Mr. McCormick could foresee any conflicts with the air space around the Toledo airport. Mr. McCormick stated not with the current plans that the County has for the airport. He has talked to Mr. Bob Johnson about this on several occasions. There are some new requirements that the airport manager is working with WSDOT aviation and he does not see a problem. Regarding the reference to the new aviation handbook, Mr. McCormick stated he believes the aviation people are looking for larger buffers for residential areas. The potential proposal with the urban reserve being in commercial or an economic UGA would not create a conflict. If anything it would be a preferred use because it does not have schools in it and it does not have medium or high density residential in it.

Commissioner Prior stated since the [Nelson/Jacobsen] letter was written over a year ago it does raise some interesting questions. One is: what happens if somebody divides their property into 20-acre lots; develops the property with a well and septic system and then a water and sewage system is brought in – would they be required to hook up?

Mr. McCormick stated they would not necessarily be required to hook up. There is no guarantee at this point that there might be circumstances that they might be required to hook up. There are examples of residential areas that are developed and sewer comes in where an existing residence is not required to hook up unless there is a problem, but that would be up to whatever the entity is that would be providing the service. There was considerable discussion about what happens if a sewer line or a water line went along SR 505 and the impact of people living along the road and if they would have to participate in the construction costs. That is a legitimate concern and there may be some circumstances where they would be required to participate.

Mr. McCormick continued to say that one of the benefits of the way you are proceeding is that there is no commitment being made tonight or in your recommendation to provide water and sewer. We all understand that at the point where there is a proposal to actually designate this as an UGA you will have had to answer those questions and have a detailed plan sufficient to say what you will need, when you will need it and how it will be financed. At that point there would be more certainty about how it will proceed and, more importantly for the property owners, how it is going to be paid for.

Chairman Russell stated he thought at that point it would be a little late to opt out. He asked if there were other questions.

Commissioner Lowery stated there was a lot of discussion about the regional utility being a major part of the subarea plan. He asked if the subarea plan is contingent on the regional utilities coming together for potential development in the future.

Mr. McCormick stated the designation as an urban reserve is not. To proceed to designating an urban growth area you would have to answer the question: How are urban services going to be provided? There is water and sewer, certainly, but there are other services such as fire and police protection, and those questions would have to be answered. In the discussion with Department of Commerce and their review of the Plan, they felt that there was not sufficient detail with regard to the fire districts as an example. The Plan does not say how you are going to provide it and a regional utility is only one way. There could be a different circumstance where the City of Toledo is providing part of it or the City of Winlock is providing part of it. There is no preferred option and there is not sufficient detail to move to the point of recommending a designation.

Commissioner Lowery stated at the public hearing there was a person representing a developer at the I-5 urban reserve area. If a developer wanted to go ahead and develop a piece of property and put in a state-of-the art sewage treatment plant would that be allowed?

Mr. McCormick stated he thought so. Commissioner Lowery stated he did not want to be so hung up on a regional system that it would prevent anything else from happening if there is a potential for it.

Mr. McCormick stated Lewis County was successful in using one of the provisions of the Growth Management Act with regard to Cardinal Glass. That statute is still available, so there is actually a couple of different ways to proceed and there is nothing that precludes a developer coming in and building the infrastructure he needs. You would probably want a specific development agreement plan with that property owner but you've got the tools within your development regulations to be able to do that. It would require an amendment to the Comprehensive Plan but we will need to do that at the point that we move forward with it.

Commissioner Prior had questions about the policies. He understood that the policies were being forwarded to the County Commissioners as an addendum to the Comprehensive Plan. Mr. McCormick stated they would be an addition to the Plan.

Commissioner Prior stated policy SCS -LU4 states that "commercial uses or services that would replace community oriented uses currently or potentially located in the town centers of Toledo, Vader of Winlock should not be allowed in the Economic Development UGAs". He then stated that policy SCS-

ED1 states that “Lewis County should develop an aggressive development posture....so that South County will become a competitive player for I-5 corridor industrial, tourism and retail/service related development in western Washington”. Commissioner Prior sees those two policies conflicting with each other. On one hand this area is being set aside for retail and services and on the other hand one of the policies states not to get in the way of existing businesses in Toledo, Winlock and Vader. He asked if he was misreading something.

Mr. McCormick stated there is always concern on the part of the small towns that something would go in [the UGA] to supersede or replace a scale or an activity that is currently in a town. He believed that the idea for both the I-5 interchange and for the economic development UGA was that these would be larger, more regional, or multi-state types of activities that would require larger parcels and access to I-5. He did not think there was any inherent conflict. Mr. Basler and others have been through this and Mr. McCormick thought it would have been picked up.

Commissioner Lowery stated that during one of the meetings Chairman Russell had asked about the policy statements, specifically the word “should” rather than “shall”. Commissioner Lowery was reviewing it and he thought the word “should” left a lot of wiggle room, whereas “shall” does not leave any wiggle room.

Mr. Carter stated he understood using the words should/shall, or would/will but these are policies and because they are policies they are inherently subject to a kind of interpretation and consideration and flexibility. They are not mandates; they are policies, and because they are policies, even if the word “shall” is used they are still a policy statement – more than aspiration but less than mandate.

Commissioner Lowery stated an ordinance uses the word shall and he wondered if that was the difference, that one was a law and the other is just a policy.

Chairman Russell asked if the BOCC was being asked to codify this. Mr. Carter stated it becomes part of the Comprehensive Plan but it becomes part of the Plan as a policy. Chairman Russell didn’t think that would make a difference because it was codified into the Plan as code. Mr. Carter stated it is not code; it is a policy statement in the Comprehensive Plan. Code is the law, but a Comprehensive Plan, and the policy statements within the Plan in his opinion, are more than aspiration but less than mandate.

Mr. McCormick stated often when you develop a comprehensive plan amendment you develop the development regulations to implement it and that is the distinction: one is policy and framework and the other has the specifics. The “should” and “shall” debate has been going on for a long time. It can be awkward and he agrees with Mr. Carter that a lot of time should not be spent trying to elaborate to a point that it is perfectly clear, because policy is guiding policy and there is flexibility and the development regulations are adopted as code and there is much less flexibility there and you generally write them more specifically.

Commissioner Prior spoke the letter from the Cowlitz Tribe. He asked if the Tribe’s issue with the DNS determination had any significance. He thought the Tribe was a member of the steering committee.

Mr. McCormick stated Tribal issues are usually dealt with under SEPA. The Tribe gets notification and there are usually obligations placed on a developer if they discover an archaeological site. There are

procedures for notification and regulations that come into play. Mr. McCormick asked Mr. Basler if Mr. Basler had talked to the Tribe and he had. Their heightened level of interest was stimulated from their perspective when Mr. Smith prematurely developed his property and disturbed an archaeological site. This letter was letting people know that there are a number of potential archaeological sites throughout the area and people need to pay attention to that. There is not a problem to the county using SEPA and all the existing network of law. There is not an issue as there is enough notification and process in play.

Mr. Carter stated when there is a specific project a survey will be done, and at that point the Department of Archaeology and Historic Preservation, the Tribe, the federal government if it is a federal project will be involved. This happens frequently and there is protocol for dealing with it.

Commissioner Guenther stated that is why the Department of Transportation spent so much time along I-5 on the Centralia project. They spent all summer doing archaeological research to make sure they were on ground that should not be disturbed.

Commissioner Guenther continued to say that the letter from the Tribe stated the report on the Smith property had not been submitted to the Department of Archaeology and Historic Preservation. He asked why it had not been submitted.

Mr. Carter stated he was not familiar with that and neither was Mr. McCormick. Commissioner Prior suggested perhaps the study wasn't done yet.

Mr. McCormick stated when he met with Commerce there was a general reference that there was still an outstanding issue regarding the Smith property but there were no details, and this could have been one aspect of that.

Chairman Russell asked if anyone knew if the Tribe dropped off of the steering committee last year. Mr. McCormick stated he did not know.

Commissioner Guenther stated along with the studies and the explanations of the studies being done when a big project comes about, he has heard the leaders of the Cowlitz Tribe saying you cannot stick a shovel in the ground anywhere in this county without the possibility of disturbing an archaeological site. The studies are going to have to be done whatever takes place [by the developer].

Commissioner Prior asked how those two properties would be taken out of the urban overlay district. Right now all the paperwork shows the map as it is but it will become something new. He asked how a map can be forwarded that the Planning Commission hasn't seen.

Mr. Deitrick stated the Planning Commission's recommendation will include removing those two and that is carried forward to the BOCC who then hold their own public hearing. At that point they could be removed. There are parcel numbers that match up with the map.

Chairman Russell asked Mr. Carter if there was enough of a change being made that it would have to go back to a public hearing again.

Mr. Carter stated this is part of the record back to 2010 so it is one of the options that will be considered by the Board. It was made part of the record in October, 2010 and the Board in its hearing can take it into account and act on it.

There was no other discussion.

D. Letters of Transmittal on South County Subarea Plan and Urban Reserve Areas

Mr. Deitrick stated the Letter of Transmittal did not include those two parcels and if the Planning Commission wanted to make that recommendation, a change would need to be made on the transmittal letter. If the Commission approves, the change could be made and the Commission could authorize the Chairman to sign the letter.

Commissioner Lowery made the motion to forward the transmittal letter on the Urban Reserve to the BOCC with two changes: one that Antoinette Nelson's 10 acres are removed from the Urban Reserve Area and Mr. and Mrs. Redden's 15 acres are removed from the Urban Reserve Area. Commissioner Guenther seconded. The motion passed.

Commissioner Lowery made the motion to forward the transmittal letter on the South County Plan to the BOCC for approval. Commissioner Guenther seconded. The vote was taken with Commissioner Prior voting no. The motion carried 4 to 1.

III. Calendar

Mr. Deitrick stated there was nothing on the agenda for another meeting at this time. No meetings are scheduled through the rest of this year. If that should change the Planning Commissioners will be advised.

IV. Good of the Order

No one wished to speak.

V. Adjourn

A motion was made and seconded to adjourn. The meeting adjourned at 7:32 p.m.